

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6606**

**BILL NUMBER:** HB 1136

**NOTE PREPARED:** Dec 18, 2010

**BILL AMENDED:**

**SUBJECT:** Injuries to or Death of an Employee.

**FIRST AUTHOR:** Rep. Stevenson

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

*Criminal Penalties:* It provides that certain employers or their agents that cause:

- (1) serious bodily injury to an employee as a result of a reckless, knowing, or intentional violation of certain administrative rules commit a Class A misdemeanor;
- (2) the death of an employee as a result of a reckless violation of certain administrative rules commit corporate manslaughter, a Class D felony; and
- (3) the death of an employee as a result of a knowing or intentional violation of certain administrative rules commit corporate manslaughter, a Class C felony.

It also provides that an employer or agent of the employer who destroys or negligently or intentionally allows the destruction of a document concerning hazards to the public or the employees of the employer commits a Class B misdemeanor.

*Civil Actions:* It authorizes a private right of action for the failure to warn of certain conditions under the state occupational safety and health act.

*Conforming Amendments:* The bill makes conforming amendments.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Criminal Penalties:* Under current law, most violations of the Indiana Occupational Safety and Health Act (IOSHA) result in a Class B misdemeanor. The requirements of the

chapter are directed to the employer. Under the bill, violations of the statute would be enhanced to a Class A misdemeanor, a Class D felony, or a Class C felony based on the actions of the employer or the employer's agent, and the degree of harm to the employee.

State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. Depend upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances.

The average expenditure to house an adult offender was \$19,307 in FY 2010. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the incremental cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$68,260 in FY 2010.

The criminal penalties under the bill would not apply to the state or its political subdivisions.

**Explanation of State Revenues:** *Criminal Penalties:* Revenue to the Common School Fund may increase if a person is sentenced for a Class D felony, Class C felony, or a Class A misdemeanor, rather than for a Class B misdemeanor. Also the bill establishes a new Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000 and the maximum fine for a Class D or a Class C felony is \$10,000.

Court fees for both misdemeanors and felonies are \$120.

*Civil Actions:* An employer is required to comply with occupational health and safety standards and keep employees informed of their protections and obligations, as well as the hazards of the workplace and suitable precautions, and the relevant symptoms and emergency treatment for such hazards. Under the bill, an employee who is harmed by the failure to inform of the employer or the employer's agent, may file a civil action for relief. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

**Explanation of Local Expenditures:** *Criminal Penalties:* Offenders convicted of misdemeanors may serve a term of incarceration in a county jail, while felony offenders are transferred to state custody. If an offender who would have served a term of incarceration in a county jail is instead committed to a state facility, costs to counties could be reduced. However, felony defendants may be detained in county jails prior to their court hearings for felony offenses. If more people are charged with Class C or Class D felonies or with the new Class B misdemeanor, cost for local jails could increase.

For the Class A misdemeanors, costs to local governments could increase because the maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. The average daily cost of housing a prisoner is approximately \$44.

**Explanation of Local Revenues:** *Criminal Penalties and Civil Actions:* Court fees for both misdemeanors and felonies are \$120, and the filing fee for a civil action is \$100. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county

general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record or the \$100 filing fee. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee or court fees. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case. For civil actions, if the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

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